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FHWA-97-2328-55

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DEPT. OF TRANSPORTATION
DOCKET SECTION

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May 12, 1997

BY: HAND DELIVERY

Office of Chief Counsel
Federal Highway Administration
Room 4232, HCC-10
400 Seventh Street, SW
Washington, DC 20590

Re: FHWA Docket No. MC-97-3, Review of the Federal Motor Carrier Safety
Regulations; Regulatory Removals and Substantive Amendments

Dear Counsel:

The following are the comments of DAC Services (DAC) in response to FHWA's notice of proposed rulemaking (NPRM) in the above-referenced docket, which was published in the Federal register of January 27, 1997, 62 Fed. Reg. 3855.

FHWA has proposed, among other things, "to replace the current requirements related to record of violations with similar requirements involving an annual inquiry to the State licensing agency regarding drivers' driving records." 62 Fed. Reg. at 3858. While DAC supports the proposed amendment, DAC and the motor carriers that use and benefit from DAC's services are concerned that the language of proposed section 391.25(a) is too narrow and could be misconstrued so as to prevent carriers from continuing to quickly and efficiently obtain the driving records of their individual drivers through consumer reporting agencies like DAC.

Identification of DAC

DAC is a consumer reporting agency that, since 1982, has been assisting motor carriers to comply with the Federal Motor Carrier Safety Regulations, including in their hiring of safe drivers. DAC is the largest provider of automated driver screening services in the nation. Over 6000 motor carriers currently subscribe to DAC's services, including virtually all of the 200 largest motor carriers in the country.

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COMMENTS

Substantial numbers of motor carriers have for years obtained the drivers' motor vehicle records (MVRs) required by §391.23 through DAC. Indeed, in 1996, over 2 million MVRs were obtained through DAC by motor carriers.

The reason that carriers have been using DAC to obtain MVRs is because of the greater efficiency and quickness available through DAC than from the individual state agencies. Indeed, because of DAC's computer link-up with each State licensing agency, DAC has been able to provide MVRs to carriers within 24 hours, and in some cases within 30 seconds, of their request. By comparison, it can take up to 30 days for a carrier to obtain an MVR when the request is made directly to the State licensing agency.

While FHWA has been well aware that carriers have been using DAC to comply with §391.23, and indeed has even expressed its written approval of this procedure in an advisory opinion (a copy of which is attached), questions concerning whether the information obtained through DAC can be used to satisfy a carrier's compliance with §391.23 are nonetheless raised from time-to-time by FHWA's field staff during carrier audits. Although the issue has ultimately been resolved in each carrier's favor, when a copy of FHWA's advisory opinion is provided, the resolution of the matter has nonetheless required the expenditure of needless time and expense by individual carriers. Clearly, the time and limited resources of both carriers and FHWA's auditors could be much better spent on more substantive matters.

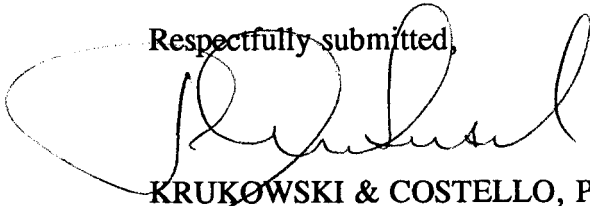
DAC and its carrier subscribers believe that as FHWA continues modernizing the FMCSR, it is essential for FHWA to formally recognize in the regulation (what FHWA has already informally recognized) as a long-standing practice and satisfactory way for carriers to comply with the annual inquiry and review of each driver's driving record. Accordingly, DAC and its carrier subscribers recommend that the language of proposed section 391.25(a) be revised as indicated by the underlined text:

Except as provided in subpart [sic] G of this part, each motor carrier shall, at least once every 12 months, make, or cause to be made by or through its agent, an inquiry into the driving record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle license during the time period.

For similar reasons, DAC further recommends a similar revision be made to §391.23(a) as follows:

Except as provided in Subpart [sic] G of this part, each motor carrier, or its agent on the carrier's behalf, shall make the following investigations and inquiries. . . .

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to a representative of Kruskowski & Costello, P.C.

KRUKOWSKI & COSTELLO, P.C.
Attorneys for DAC Services